

SENATE BILL NO. 287 (ACTS 2008, NO. 537 OF THE LOUISIANA LEGISLATURE)

ENROLLED

BY SENATORS MOUNT, ALARIO, BROOME, CASSIDY, CHEEK, DONAHUE, ERDEY, N. GAUTREAUX, GRAY, JACKSON, LAFLEUR, MICHOT, NEVERS, SMITH AND THOMPSON AND REPRESENTATIVES ARNOLD, BOBBY BADON, BARROW, BURFORD, HENRY BURNS, CARMODY, CORTEZ, DOERGE, DOWNS, ELLINGTON, ELBERT GUILLORY, GUINN, HARRISON, HAZEL, HENRY, HINES, HONEY, GIROD JACKSON, MICHAEL JACKSON, KATZ, LEGER, LIGI, LOPINTO, MCVEA, MILLS, NOWLIN, PEARSON, POPE, RICHARDSON, RICHMOND, RITCHIE, SIMON, JANE SMITH, PATRICIA SMITH, ST. GERMAIN, TALBOT, TRAHAN, WILLIAMS AND WILLMOTT

To amend and reenact Part L of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1300.111 through 1300.114, relative to health care data reporting; to provide for Louisiana health care consumers' right to know; to provide for the collection and publication of provider specific health care quality and outcome data by the Department of Health and Hospitals; to provide for the membership of the Health Data Panel; to provide for penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part L of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1300.111 through 1300.114, is hereby amended and reenacted to read as follows:

PART L. LOUISIANA HEALTH CARE CONSUMERS' RIGHT TO KNOW

1300.111. Findings

The legislature finds that as a result of rising health care costs, the shortage of health professionals and health care services in many areas of the state, and the concerns expressed by consumers, health care providers, third-party payers, and others involved with making informed decisions regarding health care services, treatment, and coverage, there is a need to have access to provider specific health care cost, quality, and outcome data on health care facilities, health care providers, and health plans as well as continued access to global patterns and trends in the availability, use, and charges for health care services and the associated health circumstances.

1300.112. Data collection; powers and duties of the Department of Health and Hospitals

The Department of Health and Hospitals, in consultation with the Health Data Panel, shall:

- (1) Identify and define the health care cost, quality, and performance data elements to be reported to the Department of Health and Hospitals in accordance with existing national and international data standards for consumers' meaningful comparison of costs for specific health care services and specific quality of care measures between and among medical facilities, health care providers, and health plans.
- (2) Develop standards of accuracy, quality, timeliness, economy, and efficiency for the provision of data.
- (3) Identify the most practical methods to collect, transmit, and share required health care data as described in this Part.
- (4) Utilize, wherever practical, existing administrative data bases, and modalities of data collection to provide the required data.
- (5) Ensure confidentiality of patients by enforcing appropriate rules and regulations at least as stringent as those regulations applicable to covered entities promulgated under the Health Insurance Portability and Accountability Act privacy regulations, 42 CFR Part 164.
- (6) Coordinate with the Louisiana Department of Insurance on all matters of health plan cost, quality, and performance data to be collected from health plans licensed to offer health insurance coverage in Louisiana. Such data shall exclude premium data and information related to the development of premiums.
- (7) Include appropriate risk-adjustment measures into the production of all health care cost, quality, and performance data issued to account for variation in facility size, location, and patient acuity levels.
- (8) Provide the process for Internet publication of provider and health plan specific cost, quality, and performance data collected pursuant to this Part for access and use by a consumer or requesting entity.
- (9) Ensure that data released pursuant to this Part shall not include any identifier which is listed in 45 CFR 164.514(b) as being necessary to be removed in order for the data to be de-identified within the meaning of 45 CFR 164.514(a).
- (10) Promulgate rules and regulations, in accordance with the Administrative Procedure Act, to carry out the provisions of this Part.
- (11) Implement the initial phase of the Internet website created pursuant to this Part on or before April 30, 2009.

(12) In the event that sufficient funds are not appropriated to implement this Part, to include the collection, storage, analysis, and dissemination of data to participating agencies, organizations, and the general public, the application and enforcement of this Part shall be suspended pending the appropriation of sufficient funds, and all accumulated health care data shall be stored with appropriate confidentiality safeguards, destroyed, or transferred to another appropriate agency or organization in accordance with state law.

1300.113. Health Data Panel; advisory council to the secretary of the Department of Health and Hospitals

A. The Department of Health and Hospitals shall create the Health Data Panel. The purpose of the Health Data Panel shall be to make recommendations to the secretary of the Department of Health and Hospitals for the implementation of the requirements of this Part. The Health Data Panel shall consider the provisions set forth in R.S.

40:1300.112.

B. Members of the Health Data Panel shall be appointed by the secretary and shall represent all interests involved in the collection and publication of provider and health plan specific cost, quality, and performance data elements. Members shall include but not be limited to health care purchasers, hospitals and other service providers, consumer and patient advocacy groups, quality improvement and health information technology groups, physicians, and any other individuals or groups as deemed necessary by the secretary.

C. The secretary or his designee shall serve as the chairman of the meetings of the Health Data Panel. The secretary may use the recommendations of the Health Data Panel to fulfill the Department of Health and Hospitals' responsibilities as set forth in this Part.

D. Members of the Health Data Panel shall serve without compensation.

1300.114. Violations; penalties

A. All state agencies and health professional licensing, certification, or registration boards and commissions, which collect, maintain, or distribute health data, shall provide to the Department of Health and Hospitals such data as are necessary for the department to carry out its responsibilities as defined in this Part.

B. All health care providers licensed by the state, including but not limited to hospitals, outpatient surgical facilities, and outpatient clinical facilities shall submit information in the manner and form prescribed in rules and regulations promulgated by the Department of Health and Hospitals pursuant to this Part.

C. Any person, firm, corporation, organization, or institution that violates any of the provisions of this Part or any rules and regulations promulgated thereunder regarding

patient confidentiality of information shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars or by imprisonment not exceeding one month, or both. Each day of the violation shall constitute a separate offense.

D. Any person, firm, corporation, organization, or institution knowingly violating any of the provisions of this Part or any rules and regulations promulgated thereunder shall be guilty of a misdemeanor and upon a plea of guilty, a plea of nolo contendere or conviction, shall be punished by a fine of not more than one thousand dollars.

E. Renewal of state licenses issued by the Department of Health and Hospitals, Department of Insurance, or health professional licensing, certification, or registration boards and commissions shall be predicated in part on compliance with data reporting requirements of this Part and rules and regulations promulgated thereunder. Prior to relicensing, the secretary of the Department of Health and Hospitals shall confirm compliance with data reporting requirements in writing to the appropriate permitting or licensing authority. The permit, certification, or license of any health care provider, health plan, or facility covered by this Part shall be suspended until such time as the required data is submitted to the Department of Health and Hospitals.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: